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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/756,702	01/10/2001	Stephane Amarger	1807.1170	6941

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EXAMINER

CHEN, ALAN S

ART UNIT	PAPER NUMBER
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2182

DATE MAILED: 07/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/756,702

Applicant(s)

AMARGER ET AL.

Examiner

Alan S. Chen

Art Unit

2182

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-71 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-30 is/are allowed.
- 6) ☒ Claim(s) 31-71 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06/29/2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

20

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to claims 1-67 have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 31-60, 62, 64, 66 and 68 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claims 31-60, 62, 64, 66 and 68 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for device, does not reasonably provide enablement for all of the "means" limitations in the claims, for instance, the first selecting means (claims 31 and 32), second selecting means (claim 32) and so forth. One would not know how to implement these means, through software or through hardware or both and also whether these means actually exist within the managing device or external to the managing device per claim 31. One example is the locating and switching means of claim 31. This appears to be disclosed in Fig. 11 and pages 28-30 but is unclear how exactly the managing device "comprises" these means. It appears these means are algorithms (which can be implemented in hardware or software) that the claimed managing device uses/executes, but there is no way to ascertain where

Art Unit: 2182

the algorithms are stored in the managing device or retrieved from outside of the managing device.

4. Claims 63, 65, 67 and 69-70 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. These claims recite a single element for performing every operation/function in the claims which effectively causes undue breadth in the respective claims, e.g., in Claim 63, the mobile station having means adapted to implement the management method would be interpreted such that the mobile station can use *any or all* conceivable ways to implement the method.

***Claim Rejections - 35 USC § 101***

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 31-60, 62-67 and 69-70 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 31-60, 62-67 and 69-70 are not limited to tangible embodiments.

7. Per claims 31-60, 62-68, applicant discloses means that can involve non-statutory matter e.g., algorithms in the form of software. As such, the claim is not limited to statutory subject matter and is therefore non-statutory.

Art Unit: 2182

8. Per claims 69-70, applicant discloses an information storage means, which in light of the specification, can be interpreted to mean some computer or microprocessor device as a whole, instead of the exact device part that stores the instructions, e.g., RAM, ROM, etc.

9. Per claim 71, applicant discloses a computer program product, the product must be stored on the medium prior to being "loadable into the memory" which is not required by the claim language.

*Allowable Subject Matter*

10. Claims 1-30 are allowed.

11. The following is the statement of reasons for the indication of allowable subject matter: The prior art disclosed by the applicant and cited by the Examiner fail to teach or suggest, alone or in combination, a method or device for managing resources of a wireless computer communication network, the network having at least one base station and a plurality of mobile processing stations linked to computer document processing devices, such that the position of the processing stations are found with the ability to change the base station to any one of these processing stations when there is not enough base stations to perform position determination.

12. New relevant prior art is made of record that is considered pertinent to applicant's disclosure, but does not anticipate or make obvious the instant application. Morvan et al. (having a separate inventive entity relative to the instant application) teaches a method of changing base stations to one of multiple mobile stations (Fig. 2 and Fig. 10) as well as the mobile stations being printers (Column 5, lines 5-15). However, Morvan et al. does not expressly disclose finding the locating means in order to obtain a position of each device on the network and then subsequently switching to the mode of a device to a base station mode when there is an

Art Unit: 2182

insufficient number of base stations. Morvan only appears to suggest an updating of location of a current base station (Column 22, lines 40-45); West teaches a mobile unit roaming from base station to base station, and the ability to obtain the relative position of a mobile device.

However, West does not teach the changing of the mobile station to a base station and the type of locating means of the instant application.

### *Conclusion*

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alan S. Chen whose telephone number is 571-272-4143. The examiner can normally be reached on M-F 8:30am - 5:30pm.

Art Unit: 2182

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dov Popovici can be reached on (571) 272-4083. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ASC  
07/20/2005



**KIM HUYNH**  
**PRIMARY EXAMINER**  
7/21/05